

October 12, 2006

TO: City of Lincoln Personnel Board Members

SUBJECT: Personnel Board Meeting
Thursday, October 19, 2006
1:30 p.m., Council Chambers
County-City Building

A G E N D A

- ITEM 1: Request for hearing on Motion to Dismiss for Lack of Jurisdiction relating to Appeal of Meredith Campbell — Library.
- ITEM 2: Request for Executive Session/*In Camera* Discussion relating to Appeal of Meredith Campbell — Library.
- ITEM 3: Request to amend Section 2.76.385 of the Lincoln Municipal Code — Funeral Leave.
- ITEM 4: Election of Chair.
- ITEM 5: Election of Vice-Chair.
- ITEM 6: Miscellaneous Discussion.

PC: Joan Ross, City Clerk
Meredith Campbell
Elaine Waggoner
Carol Connor

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BEFORE THE CITY OF LINCOLN PERSONNEL BOARD

IN THE PERSONNEL MATTER)	MOTION TO DISMISS
REGARDING)	FOR LACK OF JURISDICTION
MEREDITH CAMPBELL)	

COMES NOW the City of Lincoln, by and through Assistant City Attorney Connor L. Reuter, and hereby moves the Personnel Board to dismiss or otherwise remove from its agenda the pending appeal by Meredith Campbell for the reason that the Personnel Board lacks the authority or jurisdiction to hear such an appeal.

The nature of the controversy Ms. Campbell seeks to have heard before the Board is as follows: The Lincoln Library Board made a budgetary decision that one full-time employee should be eliminated from the Polley Music Library staff. The Director of the Library decided, based on that edict, that the Library Assistant III and the Library Aide positions should be eliminated. The Library Assistant III position was a thirty-hour per week position and the Library Aide position was a ten-hour per week position. Meredith Campbell held the Library Assistant III position. Ms. Campbell was relocated to a different area in the Lincoln Library system where she continues to receive her same compensation and enjoy her same classification.

The City of Lincoln Personnel Board is created by and ultimately derives its authority from the Lincoln City Charter. Specifically, the Charter states,

There shall be a personnel board comprised of five members who shall be appointed by the mayor and confirmed by the council. The board shall have power and shall be required to: . . .

(Lincoln City Charter, Article IX-A, Section 3)

....

Hear appeals by any employee in the classified service from a decision by the appointing authority with respect to discharge, suspension, or a reduction in classification or pay; and report in writing to the appealing employee and the appointing authority its findings and decisions, which decision shall be binding upon the appointing authority.

(Lincoln City Charter, Article IX-A, Sections 3(3))

Ms. Campbell remains a City employee, working for the Lincoln City Library in the same classification she was in previously and receiving her same pay. She is thus not an employee who has suffered a discharge, suspension, or reduction in classification or pay. This is not a matter of hearing evidence and deciding whether, on the above facts, the Board should rule in favor of the City. Rather, the Board simply lacks the authority, under the charter and ordinances, to hear the matter at all.

For the above reasons, the City respectfully requests that the matter of the Appeal filed by Meredith Campbell be dismissed or otherwise removed from the Board's agenda.

Respectfully submitted this 2nd day of October, 2006.

CITY OF LINCOLN, NEBRASKA

By: 

Connor L. Reuter, #19692
Assistant City Attorney
575 South 10th Street
Lincoln, Nebraska 68508
(402) 441-6560

CERTIFICATE OF SERVICE

The foregoing Motion to Dismiss for Lack of Jurisdiction was served upon the Appellant Meredith Campbell by mailing a true and correct copy thereof to her attorney, Elaine Waggoner, 216 North 11th Street, #301, Lincoln, NE 68508, by regular United States mail, postage prepaid, on the 2nd day of October, 2006, and by email.



Connor L. Reuter, #19692

BEFORE THE CITY OF LINCOLN PERSONNEL BOARD

IN THE PERSONNEL MATTER)	REQUEST TO NOTICE
REGARDING)	AN EXECUTIVE SESSION/
MEREDITH CAMPBELL)	<i>IN CAMERA</i> DISCUSSION

COMES NOW the City of Lincoln, by and through Assistant City Attorney Connor L. Reuter, and hereby requests that the Personnel Board, by and through its Secretary and/or Chairman, schedule an executive session/*in camera* session for October 19, 2006 in the matter relating to the appeal of Meredith Campbell, for the purpose of discussing sensitive matters relating to employees other than Ms. Campbell and for the purpose of determining the scope of testimony in the event the Board determines it has jurisdiction to hear the appeal of Ms. Campbell.


In conjunction herewith, Ms. Reuter avers that she has been led to believe, by Ms. Meredith's counsel, that testimony of an extremely personal nature relating to employees (not Ms. Campbell) will be offered at any such hearing on the appeal. It is the City's position that such testimony is wholly irrelevant to any issue even remotely appropriate for the Board to consider (the City maintains the Board lacks jurisdiction at all, however) and will request that such testimony be banned from any appeal hearing before it is put on a public record. Thus, the City requests an executive session/*in camera* session to discuss the matter with the Board prior to there being any opportunity to publicly assert such personal allegations.

Should the Board determine it lacks jurisdiction to hear the appeal, the executive session/*in camera* session will not be necessary to curtail irrelevant, personally charged testimony.

For the above reasons, the City respectfully requests that an executive session/*in camera* session be noticed on the October 19, 2006 agenda of the Personnel Board to preserve the Board's opportunity to so convene in the event a pre-hearing ruling on admissible testimony is needed.

Respectfully submitted this 10th day of October, 2006.

CITY OF LINCOLN, NEBRASKA

By: 
Connor L. Reuter, #19692
Assistant City Attorney
575 South 10th Street
Lincoln, Nebraska 68508
(402) 441-6560

CERTIFICATE OF SERVICE


The foregoing Request to Notice an Executive Session/*In Camera* Discussion was served upon the Appellant Meredith Campbell by mailing a true and correct copy thereof to her attorney, Elaine Waggoner, 216 North 11th Street, #301, Lincoln, NE 68508, by regular United States mail, postage prepaid, on the 10th day of October, 2006; copies of the foregoing Request were e-mailed on October 10, 2006 to the following:

Ed Wimes at ewimes@nebraska.edu

Don Taute at dtatue@lincoln.ne.gov

Karen Eurich at keurich@lincoln.ne.gov

Elaine Waggoner at waggonerlaw@alltel.net


Connor L. Reuter, #19692

2.76.385 Funeral Leave.

A probationary or regular employee not represented by a bargaining unit shall be granted funeral leave as follows:

(a) In the case of the death of the employee's mother, father, brother, sister, husband, wife, child, mother-in-law, father-in-law, stepmother, stepfather, stepchild, grandparent, grandchild, or in the case of death of any other relative residing in the immediate household of an employee, the employee shall be allowed twenty-four hours, or thirty-six hours for an employee with a pay range prefixed by the letter "M" who works a fifty-six hour work week, funeral leave with regular pay without deduction from pay or accumulated sick leave.

(b) In the case of the death of an employee's sister-in-law, brother-in-law, daughter-in-law, son-in-law, aunt, uncle, nephew, niece, or a grandparent of an employee's spouse, or a foster child residing in the immediate household of an employee, the employee shall be allowed sixteen hours, or twenty-four hours for an employee with a pay range prefixed by the letter "M" who works a fifty-six hour work week, funeral leave with regular pay without deduction from pay or accumulated sick leave.

(c) In addition, the employee may also be allowed to use up to twenty-four hours, or thirty-six hours for an employee with a pay range prefixed by the letter "M" who works a fifty-six hour work week, of accumulated sick leave in the case of death of any of the above-designated persons.

(d) A regular employee may be granted up to two hours ~~of time off~~ funeral leave with pay by such employee's department head or his or her designated representative to attend the funeral of a fellow employee who was employed by the City at the time of his or her death.